

RECEIVED

NOV 15 1999

80150
FURTH, FAHRNER & MASON

1 D. RONALD RYLAND, Cal. Bar No. 47949
2 JOHN D. PERNICK, Cal. Bar No. 155468
2 SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
Four Embarcadero Center, 17th Floor
3 San Francisco, California 94111
Telephone: (415) 434-9100
4 Facsimile: (415) 434-3947

5 ROGER L. LONGTIN (admitted pro hac vice)
WILLIAM J. CAMPBELL, JR., Cal. Bar No. 60740
6 STEPHEN L. AGIN (admitted pro hac vice)
MICHAEL O'NEIL (admitted pro hac vice)
7 ELIZABETH R. BACON EHLERS (admitted pro hac vice)
PIPER MARBURY RUDNICK & WOLFE
8 203 North LaSalle Street
Suite 1800
9 Chicago, Illinois 60601-1293
Telephone: (312) 368-4000
10 Facsimile: (312) 236-7516

11 Attorneys For Defendant TRANS UNION LLC

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15
16 MARCI MARTINELLI,
individually and on behalf of the California
17 public,

Civil No. 99-1867 WHA
{Rel'd. Case: 99-0632 WHA}

18 Plaintiff,
19 v.

21 TRANS UNION CORPORATION,
a Delaware corporation;
22 ACXIOM CORPORATION,
a Delaware corporation; and
23 DOES 1 through 100, inclusive,

DEFENDANT TRANS UNION'S
RESPONSES TO PLAINTIFF
MARTINELLI'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS

24
25 Defendants.

26
27
28 DEFENDANT'S RESPONSE TO
PLAINTIFF MARTINELLI'S FIRST
REQUEST FOR DOCUMENTS IN MARTINELLI v. TRANS UNION L.L.C.

1 MICHAEL ROSEN, on behalf of himself and
2 all other persons similarly situated,

3
4 Plaintiff,

5 v.

6 TRANS UNION CORPORATION,

7
8 Defendant.

9
10 Defendant Trans Union LLC, sued as "Trans Union Corporation" ("Trans Union"), pursuant
11 to Rule 34 of the Federal Rules of Civil Procedure, hereby responds to Plaintiff Martinelli's First
12 Request For Production Of Documents. As agreed between the parties and unless otherwise stated,
13 the responses are prepared to be consistent with the proposed stipulated changes to the Court's
14 September 24, 1999 Order Regarding Discovery ("Order"), as outlined in the November 2, 1999
15 letter and (its attached Exhibits A and B) from counsel for Trans Union to the Honorable Judge
16 William Alsup, not with the original September 24, 1999 Order.

17
GENERAL OBJECTIONS

18 1. Trans Union objects to the date, place and manner of production demanded by plaintiff
19 given the voluminous nature of the documents requested, and the fact that such voluminous
20 documents are located in Chicago, Illinois and Conway, Arkansas, and numerous other places
21 scattered throughout the country outside the Northern District of California and the State of
22 California. To the extent Trans Union does not object to the production of documents, Trans Union
23 will produce such documents for inspection at a time and date mutually agreed upon by the parties,
24 and at the places where such documents exist in the ordinary course of Trans Union's business.

25 2. Trans Union objects to each and every request for the production of documents to the
26 extent that such request calls for the production of documents which are protected from disclosure
27 by the attorney-client privilege and/or the attorney work product doctrine.

1 3. Trans Union objects to Definition "A" on the grounds that the phrase "any other
2 related companies or divisions" is vague and ambiguous and because the definition is overbroad and
3 unduly burdensome and demands the production of documents which are not relevant to the subject
4 matter of this litigation or reasonably calculated to lead to the discovery of admissible evidence.

5 4. Trans Union objects to Plaintiff's "Instructions" and "Definitions" to the extent that
6 they purport to impose obligations beyond those provided for by Fed. R. Civ. P. 34 or the Parties'
7 Stipulated Changes to the Order.

8

9

10 **RESPONSES TO DOCUMENT REQUESTS**

11 **Request No. 1:** All documents reflecting or referring to communications between Trans
12 Union and its target marketing customers that concern, evidence, reflect or refer to target marketing
lists.

14 **Response to Request No. 1:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
16 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
17 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
18 Trans Union has made available and will make further available for inspection the billing records,
19 production files, sales representative files and other files maintained by or on behalf of Trans Union,
20 and located in various locations throughout the country, including Chicago, Illinois and Conway,
21 Arkansas.

22

23

24 **Request No. 2:** A hard copy or printout of all information pertaining to Plaintiff in
CRONUS.

25

26

27 **Response to Request No. 2:** Trans Union incorporates its General Objections herein by

28

1 reference. Trans Union further objects to this request to the extent it demands that Trans Union
2 create documents which are not otherwise in existence, and further objects that the request is
3 overbroad and unduly burdensome to the extent it seeks a "hard copy or printout" of information in
4 CRONUS which is not part of credit reports or file disclosures printed in the ordinary course of
5 business. Without waiving the foregoing objections, Trans Union has already produced documents
6 responsive to this request, labeled TU00001-TU00022.

7
8 **Request No. 3:** A hard copy or printout of all information pertaining to Plaintiff in each copy
of version of Trans Union's Master File.

9
10 **Response to Request No. 3:** Trans Union incorporates its General Objections herein by
reference. Trans Union further objects to this request to the extent it demands that Trans Union
11 create documents which are not otherwise in existence. Without waiving the foregoing objections,
12 Trans Union has already produced documents responsive to this request, labeled TU00001-TU00022.
13

14
15 **Request No. 4:** A hard copy or printout of all information pertaining to Plaintiff in each copy
or version of Trans Union's Performance Base File.

16
17 **Response to Request No. 4:** Trans Union incorporates its General Objections herein by
reference. Trans Union further objects to this request to the extent it demands that Trans Union
18 create documents which are not otherwise in existence. Without waiving the foregoing objections,
19 Trans Union has already produced documents responsive to this request, labeled TU00001-TU00022.
20

21
22 **Request No. 5:** A hard copy or printout of all information pertaining to Plaintiff in each copy
or version of Trans Union's New Issues File.

23
24 **Response to Request No. 5:** Trans Union incorporates its General Objections herein by
reference. Trans Union further objects to this request to the extent it demands that Trans Union
25 create documents which are not otherwise in existence. Without waiving the foregoing objections,
26 Trans Union will make responsive documents available for inspection.
27

28 **Request No. 6:** One copy of each version of Trans Union's Master File.

1 **Response to Request No. 6:** Trans Union incorporates its General Objections herein by
2 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
3 and calls for the production of thousands of computer cartridges stored across the country. Without
4 waiving the foregoing objections, Trans Union will make responsive documents available for
5 inspection.

6
7 **Request No. 7:** One copy of each version of Trans Union's Performance Base File which has
8 been used to generate target marketing lists for purposes other than making a "firm offer of credit or
insurance" as defined in the Fair Credit Reporting Act, 15 U.S.C. §1681a(1).

9 **Response to Request No. 7:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
11 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
12 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
13 Trans Union states that no responsive documents exist.

14 **Request No. 8:** One copy of each version of Trans Union's New Issues File.

15 **Response to Request No. 8:** Trans Union incorporates its General Objections herein by
16 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
17 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
18 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
19 Trans Union will make responsive documents available for inspection.

20
21 **Request No. 9:** All documents reflecting or referring to the identity of Trans Union's target
marketing customers.

22
23 **Response to Request No. 9:** Trans Union incorporates its General Objections herein by
24 reference. Without waiving the foregoing objections, Trans Union will make available for inspection
25 the billing records, production files, sales representative files, data sets and other files maintained by
26 or on behalf of Trans Union, and located in various locations throughout the country, including
27 Chicago, Illinois and Conway, Arkansas.

1 **Request No. 10:** All documents reflecting or referring to the identity of the third-party mailers
2 to whom Trans Union provides or has provided its target marketing lists.

3 **Response to Request No. 10:** Trans Union incorporates its General Objections herein by
4 reference. Without waiving the foregoing objections, Trans Union will make available for inspection
5 the billing records, production files, sales representative files, data sets, and other files maintained by
6 or on behalf of Trans Union, and located in various locations throughout the country, including
7 Chicago, Illinois and Conway, Arkansas.

8

9 **Request No. 11:** All documents reflecting or referring to the target marketing lists Trans
10 Union's target marketing customers or their agents have purchased, rented or otherwise obtained
11 from Trans Union which show the selects, indicators, extracts and/or other criteria used to generate
12 said target marketing lists, including but not limited to all orders, invoices, receipts, confirmations and
13 other written communications with said customers or their agents.

14 **Response to Request No. 11:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
16 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
17 calculated to lead to the discovery of admissible evidence. Furthermore, Trans Union objects to this
18 Request in that the phrase "selects, indicators, extracts and/or other criteria used to generate said
19 target marketing lists" is vague and imprecise, making it difficult to determine what specific meaning
20 is intended and, thus, what documents are being requested. Without waiving the foregoing
21 objections, Trans Union will make available for inspection the billing records, production files, sales
22 representative files, data sets, and other files maintained by or on behalf of Trans Union, and located
23 in various locations throughout the country, including Chicago, Illinois and Conway, Arkansas.

24 **Request No. 12:** All documents reflecting or referring to the target marketing lists Trans
25 Union's target marketing customers or their agents have purchased, rented or otherwise obtained
26 from Trans Union, including but not limited to all orders, invoices, receipts, confirmations and other
written communications with said customers or their agents which show the target marketing
products (e.g., "E-VAL," "PIC," "P\$YCLE," "SOLO" and "TIE") used to generate said target
marketing lists.

1 **Response to Request No. 12:** Trans Union incorporates its General Objections herein by
2 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
3 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
4 calculated to lead to the discovery of admissible evidence. Trans Union will make available for
5 inspection the billing records, production files, sales representative files, data sets and other files
6 maintained by or on behalf of Trans Union, and located in various locations throughout the country,
7 including Chicago, Illinois and Conway, Arkansas.

8

9 **Request No. 13:** All documents reflecting a target marketing list which has been or will be
10 disclosed to a third party and which contains Plaintiff's name.

11 **Response to Request No. 13:** Trans Union incorporates its General Objections herein by
12 reference. Trans Union further objects to this request in that the request for documents reflecting a
13 list which "will be disclosed" is vague and ambiguous. Trans Union objects to the extent the request
14 is vague and ambiguous in that Trans Union does not know which target marketing lists contain
15 plaintiff's name. Without waiving the foregoing objections, Trans Union will make responsive
16 documents available for inspection.

17 **Request No. 14:** All documents reflecting a target marketing list which has been or will be
18 disclosed to a third party and which contains the name of consumer(s) whose addresses are located
in California.

19

20 **Response to Request No. 14:** Trans Union incorporates its General Objections herein by
21 reference. Trans Union further objects to this request in that the request for documents reflecting a
22 list which "will be disclosed" is vague and ambiguous. Trans Union objects to the extent the request
23 is vague and ambiguous in that Trans Union does not know which target marketing lists contain
24 names of California consumers. Without waiving the foregoing objections, Trans Union will make
25 responsive documents available for inspection.

26

27 **Request No. 15:** All documents produced by Trans Union in the FTC proceeding.

28

1 **Response to Request No. 15:** Trans Union incorporates its General Objections herein by
2 reference. Without waiving the foregoing objections, Trans Union states that it made such
3 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.
4

5 **Request No. 16:** All documents produced by the complaint counsel in the FTC proceeding.
6

7 **Response to Request No. 16:** Trans Union incorporates its General Objections herein by
8 reference. Without waiving the foregoing objections, Trans Union states that it made such
9 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

10 **Request No. 17:** All documents produced by third parties in the FTC proceeding.
11

12 **Response to Request No. 17:** Trans Union incorporates its General Objections herein by
13 reference. Trans Union further objects to the extent it demands the production of documents which
14 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
15 documents and other information outside the FTC proceeding. (Those protective orders were
16 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
17 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
18 parties producing such documents, Trans Union states that it made responsive documents available
19 for inspection by plaintiff's counsel from October 26 through October 29, 1999.
20

21 **Request No. 18:** All protective orders entered by the parties or any third parties in the FTC
22 proceeding.

23 **Response to Request No. 18:** Trans Union incorporates its General Objections herein by
24 reference. (Those protective orders were attached to a June 7, 1999 letter from Elizabeth R. Bacon
25 Ehlers to Matthew Righetti and Chris Micheletti.) Moreover, Trans Union states that it again made
26 responsive documents available for inspection by plaintiff's counsel from October 26 through October
27 29, 1999.
28

1 **Request No. 19:** All privilege logs exchanged or disclosed by the parties or by any third
2 parties in the FTC proceeding.

3 **Response to Request No. 19:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
5 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
6 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
7 Trans Union will make responsive documents available for inspection.

8
9 **Request No. 20:** All written discovery responses by Trans Union in the FTC proceeding.

10
11 **Response to Request No. 20:** Trans Union incorporates its General Objections herein by
12 reference. Without waiving the foregoing objections, Trans Union states that it made responsive
13 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

14
15 **Request No. 21:** All written discovery responses by complaint counsel in the FTC
16 proceeding.

17
18 **Response to Request No. 21:** Trans Union incorporates its General Objections herein by
19 reference. Without waiving the foregoing objections, Trans Union states that it made responsive
20 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

21
22 **Request No. 22:** All documents reflecting expert reports which were exchanged or disclosed
23 in the FTC proceeding.

24
25 **Response to Request No. 22:** Trans Union incorporates its General Objections herein by
26 reference. Without waiving the foregoing objections, Trans Union states that no documents
27 responsive to this request exist.

28
29 **Request No. 23:** All transcripts of testimony (deposition, trial, etc.) of Trans Union
30 personnel, Trans Union witnesses, Trans Union experts, complaint counsel witnesses, complaint
31 counsel experts, third-party personnel, third-party witnesses and third-party experts generated in the
32

1 FTC proceeding.

2
3 **Response to Request No. 23:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to the extent it demands the production of documents which
5 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
6 documents and other information outside the FTC proceeding. (Those protective orders were
7 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
8 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
9 parties producing such documents, Trans Union states that it made all responsive documents
10 available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

11
12 **Request No. 24:** All declarations and affidavits of Trans Union personnel, Trans Union
13 witnesses, Trans Union experts, complaint counsel witnesses, complaint counsel experts, third-party
14 personnel, third-party witnesses and third-party experts submitted in the FTC proceeding.

15
16 **Response to Request No. 24:** Trans Union incorporates its General Objections herein by
17 reference. Trans Union further objects to the extent it demands the production of documents which
18 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
19 documents and other information outside the FTC proceeding. (Those protective orders were
20 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
21 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
22 parties producing such documents, Trans Union states that it made all such documents available for
23 inspection by plaintiff's counsel from October 26 through October 29, 1999.

24
25 **Request No. 25:** All exhibits offered, entered and/or received into evidence in the trial before
26 Judge Timony in the FTC proceeding.

27
28 **Response to Request No. 25:** Trans Union incorporates its General Objections herein by
reference. Trans Union further objects to the extent it demands the production of documents which
were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such

1 documents and other information outside the FTC proceeding. (Those protective orders were
2 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
3 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
4 parties producing such documents, Trans Union states that it made all such documents available for
5 inspection by plaintiff's counsel from October 26 through October 29, 1999.

6

7 **Request No. 26:** All exhibits marked and used at any depositions in the FTC proceeding.

8

9 **Response to Request No. 26:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to the extent it demands the production of documents which
11 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
12 documents and other information outside the FTC proceeding. (Those protective orders were
13 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
14 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
15 parties producing such documents, Trans Union states that it made all such documents in its
16 possession available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

17

18 **Request No. 27:** All documents reflecting or referring to Trans Union's continuing or
19 discontinuing, or altering its practices pertaining to, the use of any selects, indicators, extracts or
other criteria in connection with its target marketing list business.

20

21 **Response to Request No. 27:** Trans Union incorporates its General Objections herein by
22 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
23 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
24 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
25 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
26 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
27 waiving these objections, Trans Union states that many of the documents responsive to other
document requests are also responsive to this request, and will be made available for inspection.

28

1 **Request No. 28:** All documents reflecting or referring to Trans Union's continuing or
2 discontinuing, or altering its practices pertaining to, the use of any target marketing products in
connection with its target marketing list business.

3 **Response to Request No. 28:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
5 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
6 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
7 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
8 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
9 waiving these objections, Trans Union states that many of the documents responsive to other
10 document requests are also responsive to this request, and will be made available for inspection.

12 **Request No. 29:** All documents reflecting or referring to the FTC's 1993 consent order with
13 TRW Inc. regarding target marketing lists.

14 **Response to Request No. 29:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects on the basis that it seeks documents protected from disclosure
16 on the basis of the attorney-client privilege and the work product doctrine. Trans Union further
17 objects to the extent it demands the production of documents which were produced pursuant to
18 protective orders prohibiting Trans Union's use or disclosure of such documents and other
19 information outside the FTC proceeding. As explained in the August 9, 1999, letter from Elizabeth
20 R. Bacon Ehlers to Matthew Righetti and Chris Micheletti, the third-party primarily responsible for
21 documents responsive to this request has refused to consent to the disclosure of the documents, thus
22 these documents will not be made available. Without waiving the foregoing objections, Trans Union
23 will make responsive documents available for inspection.

25 **Request No. 30:** All documents reflecting or referring to whether or not the disclosure, sale
26 and/or distribution of any of Trans Union's target marketing lists or target marketing products violates
27 the Fair Credit Reporting Act ("FCRA"), the Consumer Credit Reporting Agencies Act ("CCRAA")

1 or any other federal or California state law.

2
3 **Response to Request No. 30:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
5 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
6 calculated to lead to the discovery of admissible evidence. Trans Union further objects on the basis
7 that it seeks documents protected from disclosure on the basis of the attorney-client privilege or the
8 work product doctrine. Without waiving these objections, Trans Union states that many of the
9 documents responsive to other document requests are also responsive to this request, and has been
10 made available, and will be further made available for inspection.

11
12 **Request No. 31:** All documents reflecting or referring to Trans Union's continuing or
13 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any
target marketing lists or target marketing products in or around October 1997.

14 **Response to Request No. 31:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
16 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
17 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
18 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
19 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
20 waiving these objections, Trans Union states that many of the documents responsive to other
21 document requests are also responsive to this request, and will be made available for inspection.

22
23 **Request No. 32:** All documents reflecting or referring to Trans Union's no longer including
24 certain information in its Master File commencing in or around October 1997.

25 **Response to Request No. 32:** Trans Union incorporates its General Objections herein by
26 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
27 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither

1 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
2 admissible evidence. Without waiving these objections, Trans Union states that many of the
3 documents responsive to other document requests are also responsive to this request, and will be
4 made available for inspection.

5

6 **Request No. 33:** All documents reflecting or referring to Trans Union's continuing or
7 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any
target marketing lists or target marketing products in or around January 1998.

8

9 **Response to Request No. 33:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
11 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
12 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
13 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
14 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
15 waiving these objections, Trans Union states that many of the documents responsive to other
16 document requests are also responsive to this request, and will be made available for inspection.

17

18 **Request No. 34:** All documents reflecting or referring to Trans Union's no longer including
certain information in its Master File in late 1997 or early 1998.

19

20 **Response to Request No. 34:** Trans Union incorporates its General Objections herein by
21 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
22 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
23 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
24 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
25 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
26 waiving these objections, Trans Union states that many of the documents responsive to other
27 document requests are also responsive to this request, and will be made available for inspection.

28

1 **Request No. 35:** All documents reflecting or referring to the creation in late 1997 or early
2 1998 of the Performance Base file.

3 **Response to Request No. 35:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
5 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
6 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
7 Trans Union will make responsive documents available for inspection.

8

9 **Request No. 36:** All documents reflecting or referring to Trans Union's continuing or
10 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any
target marketing lists or target marketing products in or around April 1998.

11

12 **Response to Request No. 36:** Trans Union incorporates its General Objections herein by
13 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
14 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
15 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
16 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
17 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
18 waiving these objections, Trans Union states many of the documents responsive to other document
19 requests are also responsive to this request, and will be made available for inspection.

20

21 **Request No. 37:** All documents reflecting or referring to Trans Union's no longer including
certain information in its Master File in or around April 1998.

22

23 **Response to Request No. 37:** Trans Union incorporates its General Objections herein by
24 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
25 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
26 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
27 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from

1 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
2 waiving these objections, Trans Union states that many of the documents responsive to other
3 document requests are also responsive to this request, and will be made available for inspection.
4

5 **Request No. 38:** All documents referring to the 1996 amendments to the FCRA which
6 became effective October 1, 1997 and to Trans Union's sale, disclosure or distribution of its target
marketing lists or target marketing products.

7 **Response to Request No. 38:** Trans Union incorporates its General Objections herein by
8 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
9 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
10 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
11 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
12 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
13 waiving these objections, Trans Union states that many of the documents responsive to other
14 document requests are also responsive to this request, and will be made available for inspection.
15

16 **Request No. 39:** All documents reflecting, referring or relating to Trans Union's consideration
17 of the "\$2500 per occurrence penalty" imposed by the 1996 amendments to the FCRA which became
effective October 1, 1997.

18 **Response to Request No. 39:** Trans Union incorporates its General Objections herein by
19 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
20 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
21 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
22 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
23 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
24 waiving these objections, Trans Union states that it has made available for inspection documents
25 responsive to this request, and will be made further available for inspection.
26

27 **Request No. 40:** All documents reflecting, referring or relating to Trans Union's consideration
28

1 or discussion of the fact that, with the 1996 amendments to the FCRA which became effective
2 October 1, 1997, Trans Union had gone from an environment where the worst thing that could
3 happen is that Trans Union would have to stop selling certain target marketing lists to an environment
where there were significant financial penalties.

4 **Response to Request No. 40:** Trans Union incorporates its General Objections herein by
5 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
6 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
7 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
8 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
9 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
10 waiving these objections, Trans Union states that it has made available for inspection documents
11 responsive to this request, and will be made further available for inspection.

12
13 **Request No. 41:** All documents reflecting or referring to the building of the Master File in
14 December 1997.

15 **Response to Request No. 41:** Trans Union incorporates its General Objections herein by
16 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
17 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
18 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
19 Trans Union will make responsive documents available for inspection.

20
21 **Request No. 42:** All documents reflecting or referring to consumer privacy concerns or
22 expectations regarding use of credit information collected and stored by credit reporting agencies,
including any market, consumer or survey research regarding same.

23
24 **Response to Request No. 42:** Trans Union incorporates its General Objections herein by
25 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
26 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
27 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,

1 Trans Union states that documents responsive to this request were made available to plaintiff's
2 counsel for inspection from October 26, 1999 through October 29, 1999.
3

4 **Request No. 43:** All documents reflecting or referring to Trans Union's advertising,
5 promotion or marketing of its target marketing business, databases and products.
6

7 **Response to Request No. 43:** Trans Union incorporates its General Objections herein by
8 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
9 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
10 calculated to lead to the discovery of admissible evidence. Trans Union objects to the extent materials
11 responsive to this request have been previously produced (TU000063- TU000173). Without waiving
12 the foregoing objections, Trans Union further states that documents responsive to this request were
13 made available to plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.
14

15 **Request No. 44:** All documents reflecting Trans Union's gross revenues from the distribution
16 and sale of target marketing lists and target marketing products.
17

18 **Response to Request No. 44:** Trans Union incorporates its General Objections herein by
19 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
20 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
21 calculated to lead to the discovery of admissible evidence. Trans Union objects on these grounds
22 because the phrase "all documents reflecting Trans Union's gross revenues" calls for the production
23 of all customer invoices, which are voluminous. Without waiving the foregoing objections, Trans
24 Union will make responsive documents available for inspection.
25

26 **Request No. 45:** All documents reflecting Trans Union's net profits from the distribution and
27 sale of target marketing lists and target marketing products.
28

1 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
2 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
3 Trans Union will make responsive documents, if any available for inspection.

4

5 **Request No. 46:** All documents produced in response to any discovery requests in the *Frey*
6 case.

7 **Response to Request No. 46:** Trans Union incorporates its General Objections herein by
8 reference. Trans Union restates its general and specific objections levied against each request to
9 produce in the *Frey* case. Trans Union states that documents responsive to this request were made
10 available to plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.

11

12 **Request No. 47:** All documents reflecting organizational charts for Trans Union and its
13 predecessors.

14 **Response to Request No. 47:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
16 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
17 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
18 Trans Union will make responsive documents available for inspection.

19

20 **Request No. 48:** All documents reflecting organizational charts for PerformanceData and
21 its predecessors.

22 **Response to Request No. 48:** Trans Union incorporates its General Objections herein by
23 reference. Without waiving the foregoing objections, Trans Union states that documents responsive
24 to this request have already been made available for inspection by plaintiff's from October 26, 1999
25 through October 29, 1999 and Trans Union will further make responsive documents available for
26 inspection.

1 **Request No. 49:** All documents reflecting lists of the titles and responsibilities of all
2 employees of PerformanceData and its predecessors.

3 **Response to Request No. 49:** Trans Union incorporates its General Objections herein by
4 reference. Without waiving the foregoing objections, Trans Union states that documents responsive
5 to this request have already been made available for inspection by plaintiff's from October 26, 1999
6 through October 29, 1999 and Trans Union will further make responsive documents available for
7 inspection.

8

9 **Request No. 50:** All documents reflecting, referring or relating to Trans Union's privacy
10 protocol, except for documents reflecting, referring or relating thereto which address only security
measures available to prevent unauthorized access to Trans Union's databases.

11

12 **Response to Request No. 50:** Trans Union incorporates its General Objections herein by
13 reference. Without waiving the foregoing objections, Trans Union will make responsive documents
14 available for inspection.

15

16 **Request No. 51:** All trial witness lists and trial exhibit lists submitted in the FTC proceeding.

17

18 **Response to Request No. 51:** Trans Union incorporates its General Objections herein by
19 reference. Trans Union states that documents responsive to this request were made available to
plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.

20

21 **Request No. 52:** All documents reflecting or referring to the extent of consumers' awareness
22 of their right to opt-out of Trans Union's target marketing lists.

23

24 **Response to Request No. 52:** Trans Union incorporates its General Objections herein by
25 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
26 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
calculated to lead to the discovery of admissible evidence in that each individual customer opt-out
27 or phone call ever received by Trans Union would be responsive to this request. Furthermore, Trans
28

1 Union objects to this request on the grounds that the phrase "extent of consumers' awareness" is
2 vague and imprecise and is inherently subjective to the extent it requires Trans Union to evaluate
3 consumer's thoughts and impressions. Without waiving the foregoing objections, Trans Union will
4 make responsive documents available for inspection.

5

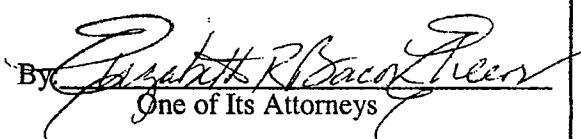
6 **Request No. 53:** All documents reflecting or referring to Trans Union's efforts to make
7 consumers aware of their right to opt-out of Trans Union's target marketing lists.

8 **Response to Request No. 53:** Trans Union incorporates its General Objections herein by
9 reference. Trans Union further objects to the extent the request seeks all documents which constitute
10 sample "firm offer" mail pieces which advise of opt-out rights. Without waiving the foregoing
11 objections, Trans Union will make responsive documents available for inspection.

12

13 DATED: November 8, 1999

14 **TRANS UNION LLC**

15
16 By 
17 One of Its Attorneys

18

19

20

21

22

23

24

25

26

27

28

1

12/9
11/8

PROOF OF SERVICE BY MAIL

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of 18 years and not a party to the within action or proceeding. My business address is Piper Marbury Rudnick & Wolfe, 203 North LaSalle Street, Suite 1800, Chicago, Illinois 60601, which is located in the county in which the within-mentioned mailing occurred. I am readily familiar with the practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence will be deposited with the United States Postal Service on the same day in the ordinary course of business.

6

7

8

On November 8, 1999, I served the following document:

9

**DEFENDANT TRANS UNION'S RESPONSES TO PLAINTIFF MARTINELLI'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

10

by placing a true copy in a separate envelope for each addressee named below, with the name and address of the persons served shown on the envelope as follows:

11

COUNSEL FOR PLAINTIFFS:

12

13

Christopher T. Micheletti, Esq.
Furth, Fahrner & Mason
201 Sansome Street, Suite 1000
San Francisco, California 91404

14

15

Matthew Righetti, Esq.
220 Montgomery Street, 16th Floor
San Francisco, CA 94104

16

17

Kevin J. McInerney, Esq.
18124 Wedge Parkway #503
Reno, NV 89511

18

The envelopes were sealed and placed in the appropriate location at my place of business for collection and mailing with postage fully prepaid in accordance with ordinary business practices.

19

20

Executed on November 8, 1999, at Chicago, Illinois.

21

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate.

22

23

Sheila Broder
Sheila Broder

24

25

Dated: November 8, 1999

26

27

[670293]

28

DEFENDANT'S RESPONSE TO
PLAINTIFF MARTINELLI'S FIRST
REQUEST FOR DOCUMENTS IN MARTINELLI v. TRANS UNION L.L.C.